

# **EXHIBIT 2**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**MARIETTA MEMORIAL HOSPITAL,  
an Ohio Corporation, *et al.*,**

**Plaintiffs,**

**v.**

**Civil Action No. 2:16-cv-08603**

**WEST VIRGINIA HEALTH CARE  
AUTHORITY,**

**Defendant.**

**AFFIDAVIT OF MARK GOLDNER**

STATE OF NORTH CAROLINA,  
COUNTY OF ONSLOW, TO-WIT:

Mark Goldner, deposes and states upon his oath the following:

1. I am an attorney licensed to practice law in the State of West Virginia. I have been practicing for over twenty-two years and I am a named partner in the law firm Hughes & Goldner, PLLC, in Charleston, West Virginia. I have extensive experience in federal court litigation, including the handling of fee shifting cases including employment discrimination, Fair Labor Standards Act cases, and constitutional cases under 42 U.S.C. § 1983.

2. I make this affidavit at the request of Webster J. Arceneaux, III, knowing that he will submit the same to a court of law in support of a motion for attorney's fees and costs. All statements and opinions made in this Affidavit are based upon my personal knowledge and experience.

3. I am familiar with Mr. Arceneaux, and his firm, Lewis, Glasser Casey & Rollins, PLLC. I am also familiar that his firm employs partners and associates, and with the quality of the firm's work on behalf of its clients. I have appeared before Mr. Arceneaux when he has served as a mediator in employment cases. I have also been adverse to Mr. Arceneaux and Ms. Raupp in cases under the Fair Labor Standards Act. In these settings, I have found the skills and caliber of work of Mr. Arceneaux, Ms. Raupp, and their firm to be very high.

4. Based upon my education, training and experience practicing law for twenty-two years, I am also familiar with the type of costs incurred and the amount of attorney's fees associated with civil litigation in the State of West Virginia.

5. I currently bill for my legal services at the rate of \$350.00 per hour in civil rights, constitutional and employment cases. In the following cases I was awarded an hourly rate of \$350.00 by the court:

Breighner and Wolfe v. Vixen's LLC, Taboo Gentlemen's Club LLC, Henry E. Worcester III, Henry E. Worcester IV, and Casey McGee, Case No. 3:16-cv-144 (N.D. W. Va. Oct. 19, 2016) (Hon. G. M. Groh) (FLSA unpaid wages case).

Federer and Neal v. Genesis Eldercare Rehabilitation Services, LLC d/b/a Genesis Rehab Services, Case No. 3:17-cv-211 (S.D. W. Va. Jan. 6, 2017) (Hon. R.C. Chambers) (FLSA unpaid wages case).

6. Civil rights and constitutional cases, such as this case involving the dormant commerce clause, are difficult and warrant a fee shifting awarded at full and fair hourly rates. If not, attorneys willing to represent plaintiffs in such cases will become increasingly rare.

7. Based on the foregoing, and based on my knowledge of Mr. Arceneaux's skill, ability, training, experience and reputation, I believe that his request for an hourly rate of \$350.00 is within the reasonable range of prevailing market rates in this area.

8. I further believe that the request for an hourly rate of \$350.00 for Mr. Casto and \$275.00 for Ms. Raupp is within the reasonable range of prevailing market rates in this area.

9. If I can amplify anything stated herein, I am willing to do so.

AND FURTHER AFFIANT SAITH NAUGHT.

*Mark Goldner*

Mark Goldner

Taken, subscribed and sworn to before me this 5 day of December, 2017.

My Commission Expires:

January 1, 2019

*Tracy Batts Iovanna*  
Notary Public

